United States District Court
For the Northern District of California

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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11   CHARLES NEWMAN,   )
)   No. C 06-03109 JW (PR)
12   Petitioner,   )
)   ORDER OF DISMISSAL
13   vs.   )
)
14   M. CASTELLAWS, Warden   )
)
15   Respondent.   )   (Docket No. 3)
)
16   _____

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18   Petitioner, a California state prisoner currently incarcerated at the Corcoran

19   State Prison, has filed a pro se petition for a writ of habeas corpus pursuant to 28

20   U.S.C. § 2254. Petitioner seeks to proceed in forma pauperis under 28 U.S.C. §

21   1915.

22   Petitioner challenges the prison disciplinary hearing on or about October 10,

23   2004, finding him guilty of "falsification of records or documents not affecting term

24   of imprisonment" as stated in the Rules Violation Report ("RVR"). (Pet. Ex. C at

25   1.) According to the RVR, petitioner was not assessed forfeiture of time credits

26   because time constraints were exceeded. Petitioner's only prayer for relief is that

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28   Order of Dismissal
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1   the RVR be reversed and expunged from his record.
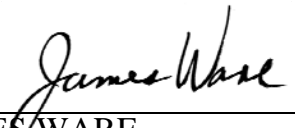
2   Since petitioner is challenging the conditions of his confinement, the petition

3   for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights

4   complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas

5   jurisdiction is absent, and a § 1983 action proper, where, as here, a successful

6   challenge will not necessarily shorten the prisoner's sentence. See Ramirez v.

7   Galaza, 334 F.3d 850, 859 (9th Cir. 2003). Moreover, requests to expunge records

8   are traditionally brought as civil rights claims. See, e.g., Paul v. Davis, 424 U.S.

9   693, 711- 714 (1976); Reyes v. Supervisor of DEA, et al., 834 F. 2d 1093, 1097 (1st

10   Cir. 1987) (no due process claim for false information maintained by police

11   department); Pruett v. Levi, 622 F.2d 256, 258 (6th Cir. 1980) (mere existence of

12   inaccuracy in FBI criminals files does not state constitutional claim).

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14   **CONCLUSION**

15   For the foregoing reasons, the petition for a writ of habeas corpus is

16   DISMISSED without prejudice. No fee is due.

17   The clerk shall terminate Docket No. 3 as moot.

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19   DATED: June 19 2007   _____

20   JAMES WARE
                                                        United States District Judge

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28   Order of Dismissal
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